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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,110	11/05/2001	Gustavo Palacio	16,422	7471
23556	7590	04/21/2005	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			COLE, ELIZABETH M	
			ART UNIT	PAPER NUMBER

1771

DATE MAILED: 04/21/2005

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/992,110  
Filing Date: November 05, 2001  
Appellant(s): PALACIO ET AL.

\_\_\_\_\_  
Richard Shane  
For Appellant

**EXAMINER'S ANSWER**

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This is in response to the appeal brief filed 10/29/04. The brief was considered to be non-compliant but in view of Applicant's remarks filed 1/24/05, it is noted that the brief filed 10/29/04 was compliant.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

WO 06/06222A1	Milding et al	2-1996
4,753,682	Didwania et al	6-1988

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Didwania et al, U.S. Patent No. 4,753,682 in view of WO 96/06222 to Milding et al. Didwania et al discloses a method of separating fibers from a prebonded fibrous material comprising the steps of shredding the fibrous material and subjecting the shredded fibrous material to shearing forces while the shredded fibrous material is disposed in a liquid so that the shear forces separate the fibrous material into individual fibers and then recovering the fibers. Didwania et al also discloses the separated fibers. See col. 2, lines 28-60.

Didwania et al differs from the claimed invention because Didwania does not disclose that the prebonded fibrous material comprises synthetic fibers. Milding et al teaches at page 3, lines 10-29 that woven and nonwoven fabric which may be broken down to recycled fibers may comprise synthetic fibers, natural fibers and combinations of both. Therefore, it would have been obvious to have employed either fabrics which comprised either natural or synthetic fibers or mixtures of the two as the fibrous material of Didwania et al. One of ordinary skill in the art would have been motivated to employ either or both types of fibers by the teaching Milding that fabrics comprising both types of fibers can be broken down into recycled fibers. Didwania et al also differs from the claimed invention because Didwania et al does not disclose the claimed angles, clearance or horsepower of the source of the shearing forces. However, since

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Didwania et al teaches that the shear forces should be sufficient to separate the bonded material into fibers, it would have been obvious to one of ordinary skill in the art to have selected the appropriate angles, speeds, horsepower, etc. which would adequately separate the fibers from the fibrous material.

Claims 1-27 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/012,768. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to have hydraulically entangled the nonwoven of the instant application in order to further bond the fabric hydraulically needling nonwoven fabrics is a well known method of mechanically bonding them.

Claims 1-27 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/012,766. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to have hydraulically entangled the nonwoven of the instant application in order to further bond the fabric hydraulically needling nonwoven fabrics is a well known method of mechanically bonding them.

#### **(10) Response to Argument**

Appellant argues that there is no motivation to combine the teaching of Didwania et al with Milding et al because Didwania relates to a method of separating cellulosic which were latex bonded and that the method of Didwania teaches employing a mild

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chemical treatment and mild mechanical treatment which is specifically for such latex bonded cellulosic fibers. However, the instant claims recite disposing pieces of the fibrous material into "a liquid" to form a suspension and "applying mechanical work" to the suspension sufficient to frame the fibrous materials into fibers and fiber-like components. Didwania teaches a method of recycling a fibrous material which meets all the limitations of the claimed invention except that Didwania does not teach employing synthetic fibers. Milding teaches fibrous materials which comprise cellulosic fibers, synthetic fibers and mixtures of both types of fibers can be recycled. Appellant argues that Milding does not disclose suspending pieces of the bonded fibrous material of Milding in a suspension and applying mechanical work to the suspension to generate fibers. However, those limitations are taught by Didwania. Since Didwania teaches the claimed method except for the particular type of fibers employed, it is the examiner's position that, in view of the teaching of Milding that it is desirable to recycle fibrous materials which comprise combinations of cellulosic and synthetic fibers as well as cellulosic and synthetic fibers alone, one of ordinary skill in the art would have been motivated to employ the particular process disclosed by Didwania with the types of fibers disclosed in Milding. Appellant seems to argue that the teaching of Didwania are limited to a method of recycling fibers which are latex bonded because the liquid into which the fibrous pieces are suspended chemically acts on the latex binder to aid in generating the fibers from the fibrous pieces. However, there is nothing in the claims to either require or prevent the use of particular liquids for the suspension. If the fibrous material which was going to be recycled comprised a bonded fabric, the teachings of

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Didwania to employ a liquid for the suspension which would aid in the separation of the bonded fibrous material would improve the final results of the recycling process.

Appellant argues that there would have been no motivation to employ different fibers in the process of Didwania. However, Milding teaches the desirability of recycling fibrous materials which comprise synthetic and/or cellulosic fibers by breaking the fibrous material down into fibers. Didwania teaches an effective and efficient method for recycling such materials. Therefore, it would have been obvious for one of ordinary skill in the art to have employed other types of fibrous materials such as those disclosed in Milding in the process of Didwania.

Appellant argues that the combination of Didwania and Milding do not teach of suggest all the limitations of claim 1. Appellant argues that Didwania does not teach that the fibers are hydraulically fragmented. However, the claim does not recite that the fibers per se are hydraulically fragmented but instead recites "conditions sufficient to hydraulically fragment the bonded fibrous materials into fibers and fiber-like components". Didwania teaches applying mechanical work to the liquid suspension in order to fragment the bonded materials into fibers. Therefore, Didwania does this limitation.

Appellant argues that the combination of Didwania and Milding do not teach of suggest all the limitations of claim 17. Appellant argues that the combination of Didwania and Milding does not teach the synthetic fiber having at least one irregular distortion. However, since Didwania teaches the same process it is the examiner's

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position that if synthetic fibers were substituted for cellulosic fibers as taught Milding a fiber having the irregular distortion would necessarily be produced.

With regard to the double patenting rejections, it is noted that Appellant has offered to provide terminal disclaimers if necessary once claims are allowed.

For the above reasons, it is believed that the rejections should be sustained.

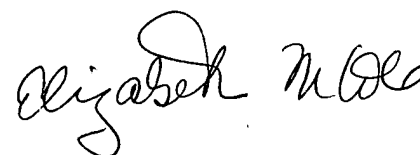
Respectfully submitted,

e.c.

Conferees:

Terrel Morris - *FM*

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PRIMARY EXAMINER